IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE P.N.RAVINDRAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 25391 of 2006(S)
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OA.823/2005 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH

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PETITIONERS:
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1. DR.E.VIVEKANANDAN, AGED 56 YEARS,
S/O.A.K. ELAYAPERUMAL, PRINCIPAL,
SCIENTIST, CMFRI KOCHI, PERMANENT ADDRESS,
65/1119, MOTHER TERESA ROAD, ERNAKULAM, KERALA.

2. DR.K.SUNIL KUMAR MOHAMMED,
AGED 48 YEARS, S/O.K.H.MOHAMMED, HEAD,
MOLLYSCAN FISHERIES DIVISION, CMFRI KOCHI 18,
R/A. 2A, MG APARTMENT, VIDHYA VIHAR ROAD,
THEVARA, KOCHI 13, KERALA.

3. REETA JAYASHANKAR, AGED 46 YEARS,
SENIOR SCIENTIST, CMFRI, KOCHI,
R/A. RACHANA, 1754A, CHITTOOR ROAD,
ERNAKULAM, KERALA.

4. P.JAYASHANKAR, AGED 46 YEARS,
SENIOR SCIENTIST, CMFRI, KOCHI,
R/A. 1754A, RACHANA, CHITTOOR ROAD,
ERNAKULAM, KERALA.

5. K.C.GEORGE, AGED 60 YEARS,
S/O.K.M.CHANDY, PRINCIPAL SCIENTIST,
CMFRI, KOCHI, R/A. KIZHEAKKAYIL,
CHANGAMPUZHA NAGAR, KALAMASSERY, KOCHI ,
KERALA.

6. DR.V.CHANDRIKA, AGED 59 YEARS,
W/O. P.N.ARAVINDAKSHAN, PRINCIPAL, SCIENTIST,
CMFRI, KOCHI-18, PERMANENT ADDRESS AT "KARTHIKA",
GOVT.HIGH SCHOOL ROAD, EDAPPALLY, KOCHI-24,KERALA.

7. DR. RAMACHANDRAN N., AGED 54 YEARS,
S/O. NARAYANA PILLAI P., PRINCIPAL, SCIENTIST,
CMFRI MANGALORE, PERMANENT ADDRESS AT SANJEEVANI
HOUSE, YEMMAKKARA CROSS ROAD, MANGALORE,KARNATAKA.

8. DR. P.U.ZACHARIA, AGED 46 YEARS,
S/O. P.U. ULAHANNAN, SENIOR SCIENTIST, CMFRI
MANGALORE, PERMANENT ADDRESS AT MPX.371,
R.D.NAGAR, KASARAGOD, KERALA.

9. DR. P.KRISHNA KUMAR, AGED 47 YEARS,
S/O. K.P. BALAN KIDAVU, SENIOR SCIENTIST,
CMFRI MANGALORE, PERMANENT ADDRESS AT FLAT NO.602
RETREAT, SL MATHAIAS ROAD, FALMIR, MANGALORE,
KARNATAKA.

10. DR. PRATHIBHA ROHIT, AGED 45 YEARS,
W/O. ROHIT S.AMIN,SENIOR SCIENTIST,CMFRI MANGALORE
PERMANENT ADDRESS AT SATHYASHRAYA, BANNANJE UDUPI,
UDUPI, KARNATAKA.

11. DR. K.R.MANMADHAN NAIR, AGED 57 YEARS,
S/O.K.RAMAN NAIR, PRINCIPAL SCIENTIST, CMFRI,
CALICUT, KERALA, PERMANENT ADDRESS AT VINOBA NAGAR
CILAVANOOR ROAD, ERNAKULAM, KERALA.

12. DR. T.S.VELAYUDHAN, AGED 56 YEARS,
S/O. THARAMMAL SHANKARAN, PRINCIPAL, SCIENTIST
CMFRI, TUTICORIN, PERMANENT ADDRESS AT CHITIRA,
174 CITIZEN ROAD, 4TH CROSS LANE, AYYAPPAN KAVU,
KOCHI, KERALA.

13. DR. P.KALADHARAN, AGED 47 YEARS,
S/O. N.PONNAN, SENIOR SCIENTIST, CMFRI,
PERMANENT ADDRESS AT EDAVILAKATHIL, 35/2488,
BHAGYADARA LANE, MAM-POTTAKUZHY ROAD,
PALARIVATTOM P.O., KOCHI, KERALA.

14. DR. G.MOHANRAJ, AGED 57 YEARS,
S/O. M.GURUSARANAM, PRINCIPAL SCIENTIST,
CMFRI MADRAS CENTER, HIGH ROAD, CHENNAI,
PERMANENT ADDRESS AT NO.41,GANESH AVENUE EXTENSION
SAKTHY NAGAR, PORUR, CHENNAI, TAMILNADU.

15. DR. P.K.ASHOKAN, AGED 46 YEARS,
S/O. P.K.UNNERI, SCIENTIST (SG), CMFRI
VERNAL RESEARCH CENTER, VERAVAL, JUNAGADH DISTRICT
GUJARAT, PERMANENT ADDRESS AT A2, KHARYA SOCIETY
VERAVAL, GUJARAT.

16. DR.V. KRIPA, AGED 44 YEARS,
D/O. M. VASANTH RAO, SENIOR SCIENTIST, CRC,CMFRI,
KOZHIKODE, PERMANENT ADDRESS AT AATHIRA,
PEOPLES ROAD, KARAPARAMBU, KOZHIKODE, KERALA.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.T.C.GOVINDA SWAMY

RESPONDENTS:
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1. INDIAN COUNCIL OF AGRICULTURAL RESEARCH
THROUGH THE SECRETARY, ICAR, KRISHI BHAVAN,
NEW DELHI-110001.

2. THE PRESIDENT,
INDIAN COUNCIL OF AGRICULTURAL RESEARCH,
KRISHI BHAVAN, NEW DELHI-110001.

3. THE DEPUTY SECRETARY (P),
INDIAN COUNCIL OF AGRICULTURAL RESEARCH,
KRISHI BHAVAN, NEW DELHI.

4. THE DEAN (FISHERIES),
KARNATAKA VETERINARY ANIMAL & FISHERIES SCIENCES
UNIVERSITY, NANDINAGAR, P.B.NO.6, BIDAR-585401,
KARNATAKA.

5. DR.MOHAN JOSEPH MODAYIL,S/O.SHRI JOSE,
DIRECTOR, CENTRAL MARINE FISHERIES,
RESEARCH INSTITUTE, POST BOX NO.1603,
NORTH POST OFFICE, KOCHI-682018, KERALA.

6. THE SECRETARY,
AGRICULTURAL SCIENCES RECRUITMENT BOARD,
INDIAN COUNCIL OF AGRICULTURAL RESEARCH,
KRISHI ANUSANDHAN BHAWAN, PUSA, NEW DELHI.

7. DR.S.AYYAPPAN,
DEPUTY DIRECTOR GENERAL (FISHERIES),
INDIAN COUNCIL OF AGRICULTURAL RESEARCH,
KRISHI BHAVAN, NEW DELHI.

8. THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH, ERNAKULAM, REP. BY ITS REGISTRAR.

BY ADV. SRI.P.JACOB VARGHESE, SC, ICAR
SRI.P.SANTHOSH KUMAR (PANAMPALLI NAGAR)
SRI.LUIZ GODWIN D'COUTH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.25391/2006

**PETITIONERS' EXHIBITS:**

EXT.P1 COPY OF THE ORDER OF THE C.A.T IN O.A.NO.823/05 DTD 11.7.2006.

EXT.P2 COPY OF THE ORDER OF THE C.A.T IN R.A.NO.21/06 IN O.A.823/05 DTD 1ST SEPTEMBER, 06.

EXT.P3 COPY OF THE O.A.823/05.

EXT.P4 COPY OF THE STATEMENT FILED BY COUNSEL FOR THE RESPONDENTS NOS.1 TO 4,6 AND 7 DTD 2.1.2006.

EXT.P5 COPY OF THE REJOINDER FILED BY THE APPLICANT DTD 8.1.06.

EXT.P6 COPY OF THE REPLY TO THE REJOINDER FILED BY THE COUNSEL FOR R1 TO R4,6 AND 7 DTD 18.1.2006.

EXT.P7 COPY OF THE REPLY STATEMENT FILED BY R5 AND R7 DTD 15..3.2006.

EXT.P8 COPY OF THE REJOINDER FILED BY THE APPLICANTS IN RESPONSE TO THE REPLY STATEMENT DTD 15.3.2006 FILED BY R5 & R7.

EXT.P9 COPY OF THE REPLIES OF R5 & R7 IN RESPONSE TO THE REJOINDER DTD 8.4.06 FILED BY THE APPLICANTS, RECEIVED BY THE RESPONDENTS ON 17.4.06 DTD 25.4.06.

EXT.P10 COPY OF ADDITIONAL REPLY STATEMENT FILED BY R5 & R7 DTD 17.5.06.

EXT.P11 COPY OF THE ARGUMENT NOTES FILED ON BEHALF OF THE APPLICANTS DTD NIL.

EXT.P12 COPY OF THE REPLY TO THE ARGUMENT NOTES OF THE APPLICANTS FILED BY R1 TO R4 AND R6 IN ADDITION TO THE SYNOPSIS ALREADY SUBMITTED.

EXT.P13 COPY OF THE REJOINDER TO THE REPLY ARGUMENT NOTES FILED BY R1 TO R4 AND R6 DTD 11.7.2006.

EXT.P14 COPY OF A REVIEW APPLICATION FILED UNDER SEC.22(f) OF THE ADMINISTRATIVE TRIBUNAL ACT 1985 READ WITH RULE 17 OF CAT (PROCEDURE)RULES 1987 DTD 30.7.06.

**RESPONDENTS' EXHIBITS:**

EXT.R1(a) COPY OF THE PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 24.1.94.

EXT.R1(b) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 1.11.94.

EXT.R1(c) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 1.11.94.

EXT.R1(d) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 30.11.95.

EXT.R1(e) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 27.3.96.

EXT.R1(f) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 24..6.96.

EXT.R1(g) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 1.6.99.

EXT.R1(h) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 4.11.99.

EXT.R1(i) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 29.3.2000.

EXT.R1(j) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 27.4.2000.

EXT.R1(k) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 5.9.2000.

EXT.R1(l) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 12.8.04.

EXT.R1(m) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 24.8.04.

EXT.R1(n) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 23.2.05.

EXT.R1(o) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 23.2.2005.

EXTR1(p) COPY OF PROCEEDINGS OF THE TENURE RENEWAL COMMITTEE HELD ON 23.8.2005.

EXT.R2 COPY OF LETTER F.NO.38(10)/2003-per.IV DTD 3.2.04.

/TRUE COPY/

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**K. BALAKRISHNAN NAIR & P.N. RAVINDRAN, JJ.**

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**W.P.(C).NO.25391 OF 2006-S**

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**Dated this the 17th day of December, 2007.**

**JUDGMENT**

**Balakrishnan Nair, J:**

The petitioners challenge Ext.P1 order of the Central Administrative Tribunal in O.A.No.823/2005 and also Ext.P2 order in R.A.No.21/2006 in that O.A. The original application was filed challenging Annexure-A1 order and Annexure A8 which is the relevant portion of the Rules dealing with appointment on tenure basis. Annexure A1 is an order renewing tenure of appointment of the 5th respondent as Director of Central Marine Fisheries Research Institute, Cochin, for a further period up to 31.3.2009 or until further orders, whichever is earlier.

2. The learned Standing Counsel appearing for the I.C.A.R submitted that the 5th respondent has been posted as a member of the Agricultural Scientific Recruitment Board, New Delhi, by order dated 7.12.2005. So, he relinguished the charge of the present post and the next person in seniority, one Dr.N.G.K. Pillai,

has been put in charge of the post of Director also.

3. But, the learned counsel for the petitioners submitted that the 5th respondent was selected for the present assignment by virtue of his continuance in service on the strength of the order extending his term of appointment. If that order is quashed, the 5th respondent would not have been selected for the present assignment.

4. The extension of term of the 5th respondent has ended as a result of the present development. So, there will be a fresh selection to the post of Director, CMFRI, in accordance with the Recruitment Rules. The petitioners and other eligible candidates can contest for the post, if so advised. Since the 5th respondent no longer blocks their way, it is unnecessary for us to consider the validity of the extension granted to him. Further the petitioners do not stake their claim for being considered for appointment to the post of Member, Agricultural Scientific Recruitment Board, New Delhi. Therefore, it is unnecessary for us to consider the validity of the order impugned, as per which the tenure of appointment of the 5th respondent was extended.

5. In view of the above position, challenge against Annuexure

A1 has become infructuous. Challenge against Annexure A8 in the present context, is only hypothetical in nature. This Court will not decide an issue unless it is absolutely necessary for the disposal of the case. So, the contentions, in support of the prayer for challenging Annexure A8, are kept open. The petitioners have also a prayer to resort to direct recruitment to the post of Director of C.M.F.R.I. The learned counsel for the respondents submitted that steps are being taken to make recruitment to the post of Director, according to the ICAR rules.

In view of the above position, the writ petition is closed without prejudice to the contentions of the petitioners.

**K.BALAKRISHNAN NAIR, JUDGE.**

**P.N. RAVINDRAN, JUDGE.**

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